IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEALNO.1231 OF 2005

Grampanchayat Mouje Hupari
Tal. Hatkanangale, Dist.Kolhapur & Ors....Appellants
Versus
Shri Ram Bhimayya Swami @ Gurav ..Respondents

Mr.T.S.Ingale for appellants

CORAM : P.V.KAKADE, J.

DATE : 11TH OCTOBER, 2005.

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by Addl. District Judge, Kolhapur dismissing the appeal and confirming the judgment and order passed by the trial court dated 3.5.2003 decreeing the plaintiff’s suit for perpetual injunction against the present appellant-Grampanchayat.

2. I have heard the learned counsel for the appellants. Perused the record.

3. The plaintiff filed the suit for injunction against the Grampanchayat with restrainment order from causing interference to his peaceful possession over the suit property and from dispossessing him from the suit property without following due process of law, as they

had no basis whatsoever to dispossess him. The defendants-Grampanchayat denied the allegations made by the plaintiff, inter alia, raising certain contentions and sought dismissal of the suit.

. The learned trial judge adjudicated the dispute on merits and came to the conclusion that though the plaintiff had failed to prove his lawful title in the suit property, he had succeeded in establishing his possession and enjoyment of the suit property and hence the suit came to be decreed for perpetual injunction. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties concurred with the findings recorded by the trial court and held that the plaintiff was in settled possession of the suit property and therefore he should not be dispossessed without principle of law and dismissed the appeal. Hence the present appeal.

4. At the outset, it must be noted that there is no substantial question of law involved in the present appeal. Both the courts below have concurrently found that the plaintiff is in settled possession of the suit property. The evidence is also sufficient to support

this finding and in fact it is an admitted position that the plaintiff is in possession thereof. No doubt the plaintiff had alleged ownership of the suit property, however, both the courts below have denied the claim of ownership and had held that he is in settled possession of the suit property since long. Under the circumstances, I do not see any reason why the findings recorded by both the courts below should be interfered with especially when the plaintiff's settled possession is established. At this juncture it must be noted that the lower appellate court has recorded findings that the true owners of the property is not Grampanchayat but is the State Government. Evidently the suit property is Gaothan property and is owned by the State but is vested in Grampanchayat as per the relevant law. In these circumstances, the appellants-defendatn is at liberty to take appropriate steps to seek possession of the suit property by due process of law.

. In the result the appeal stands dismissed.